

1 **IN THE UNITED STATES DISTRICT COURT**
2 **FOR THE DISTRICT OF PUERTO RICO**

3 **UNITED STATES OF AMERICA,**

4 **Plaintiff,**

5 **v.**

CIVIL NO. 99-1435 (GAG-MEL)

6 **COMMONWEALTH OF PUERTO RICO,**
7 **et al.,**

8 **Defendants.**

9 **SECOND ORDER RE: DSPDI COVID-19 PROTOCOL**

10 Following the Court's order last evening (Docket No. 2752), DSPDI submitted its COVID-
11 19 Protocol at 7:55 p.m. (Docket No. 2753-1). There is simply no justification for such belated
12 submission, given that the Court's Emergency Order (Docket No. 2744) was issued over a week ago
13 and the coming of the Coronavirus pandemic loomed in the horizon much earlier, as evidenced by
14 emergency declarations from the President and Governor. More so, the DSPDI Protocol, upon
15 review, is a non-legal document that certainly could have been submitted earlier by the DSPDI Task
16 Force and by now would likely be a non-issue. However, this has unnecessarily delayed the approval
17 of a final and critical COVID-19 Protocol.

18 The JCC and United States Department of Justice will, thus, review the Protocol **by March**
19 **30, 2020**. The Court again notes that this Protocol is not a legal document. Accordingly, it is clearly
20 not something that Commonwealth and Department of Justice counsel, as well as the JCC, can
21 simply read and agree to. The JCC has a team of U.S. mainland health expert consultants, who will
22 review accordingly and comment with all deliberate, yet responsible, speed if possible before March
23 30. Thereafter, the JCC will immediately set a conference for the parties to discuss and approve the
24

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1 final Protocol to be submitted to the Court by him. Timing here is of the essence, hence, the parties'
2 full cooperation with the JCC is expected. Should any unexpected event or issue occur or arise the
3 JCC will inform via motion.

4 Having reviewed DSPDI's motion (Docket No. 2753) as well as that of the United States
5 Department of Justice (Docket No. 2750), the Court further addresses the following matters
6 discussed therein:

- 7 1. Foremost, this is not the time nor place for counsel to exchange unnecessary remarks and
8 comments as if this were a hotly contested litigation process. The Court will not permit this
9 and expects all to collaborate. Moreover, the JCC is not a party, but rather a judicial officer
10 who acts as the "eyes and ears" of the Court. As such, nothing but the utmost respect and
11 observance of his court-ordered functions, as well as requirements in furtherance of the same,
12 is required.
- 13 2. The Court's deadlines and JCC's requests for information must be timely complied with.
14 DSPDI personnel from who the same are directed and requested must cooperate fully with
15 the Court and JCC staff, and will not put the request on hold so that a supervisor or counsel
16 can authorize. See Order at Docket No. 2690.
- 17 3. CTS services continue to be suspended for the 30-day period as per the Emergency Order
18 (Docket No. 2744).
- 19 4. Restricted Home Visits may be carried out by health and clinical professionals, so long as all
20 necessary precautions are carried out. See Order at Docket No. 2751.
- 21 5. The Court's Food/Beverage directive in the Emergency Order (Docket No. 2744) remains
22 set as 45 days. The Court only expects that this food and beverage be canned or bottled, and
23 likewise may consist of power bar type meals.

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6. The JCC and DSPDI Director (or his designee), as well as his staff, will continue to remain in contact at all necessary times with the JCC and staff.

7. The “shelter in place” directive does not strictly encompass any emergency events involving the participants’ health and safety. However, any emergency matter must be immediately informed to the JCC.

8. At this time, no sanction is imposed upon the Health Department/DSPDI. However, the Court’s steadfast warning in its order at Docket No. 2752 stands (*i.e.*, “forewarned is forearmed”).

SO ORDERED.

In San Juan, Puerto Rico this 25th of March, 2020.

s/ Gustavo A. Gelpí
GUSTAVO A. GELPI
United States District Judge